**National Wealth Fund eProcurement System – Terms of Use**

1. Introduction
	1. National Wealth Fund (“**NWF”**) uses this eProcurement System (“**System**”) to advertise and manage procurement opportunities and processes, contracts and Supplier interaction.
	2. This System is provided by Atamis Limited (“**Atamis**”) and licensed to NWF. Technical support and maintenance of the System is provided by Atamis.
	3. This page sets out the terms and conditions for registered users (each a “**Registered User**”) accessing and using the System (“**Terms of Use**”).
	4. Terms defined in these Terms of Use like (“**This**”), or similar, have the meanings given to them, in addition to the terms which are defined in clause 17 (Definitions). Terms defined in these Terms of Use have the meaning given to them wherever they are used in these Terms of Use, even if the definition is at the end of these Terms of Use and the term is used earlier in the text.
2. Acceptance of Terms of Use
	1. You must agree to these Terms of Use to access and use the System as a Registered User. You agree to be bound by, and must observe and comply with, these Terms of Use at all times when using the System. Suppliers acknowledge that by a Registered User accessing and using the System using their registered account on the Supplier’s behalf, the Supplier shall also be bound by these Terms of Use.
	2. Access to and use of the System by each Registered User, in any way, shall be subject to you at all times observing and complying with these Terms of Use and any further rules expressed and presented in the System. In the event that there is any conflict between these Terms of Use and any such further rules, then the provisions of such further rules shall take precedence over these Terms of Use.
	3. The aim of the System is to support NWF with undertaking the following:
		1. recording Profiles of Suppliers;
		2. market engagements;
		3. procurement exercises;
		4. activity relating to commercial contracts; and
		5. any supply chain management activity,

(together referred to as the “**Services**”), by enabling Registered Users, subject at all times to clause 2.4, to complete and submit responses to a range of procurement requirements, information about the relevant Supplier, and related information (“**Primary Use Purpose**”) for storage and subsequent retrieval and use of such responses and information by NWF.

* 1. The Registered Users shall only use the System to engage in the Services (on the basis described in this clause 2.4) in accordance with these Terms of Use. Registered Users may engage in the Services only on behalf of the organisation that employs or retains them, such organisation being a bidder or supplier for the purposes of the procurement, engagement, contract or management activity being conducted by NWF.
1. Access
	1. NWF grants to each Registered User, free of charge, access to the System for the Primary Use Purpose, subject at all times to these Terms of Use.
	2. NWF in its absolute discretion reserves the right to temporarily or permanently suspend and/or block and/or remove and/or limit and/or change:
		1. any Registered User’s access to the System, or the access to the System of all Registered Users of any particular Supplier; and/or
		2. some or all of the Profile or other information relating to the relevant Supplier,

at any time, without notice, for any reason including technical or legal reasons.

1. Registration and Registered User account
	1. To be granted a Registered User account and access to the System, each Registered User must input into the System all of the registration data that is requested by the System, including their name, address and email address.
	2. Usernames and passwords are strictly personal to the Registered User and non-transferable. Each Registered User shall not disclose to or otherwise share their password with any other person, and the Supplier accepts full responsibility for ensuring that its Registered Users do not divulge or disclose their user ID or password to third parties. If the Supplier and/or any Registered User becomes aware that any user account or password may have been compromised, they shall immediately notify the Helpdesk.
	3. The Supplier must immediately inform the Helpdesk when a Registered User is no longer employed or retained by that Supplier, or where the Registered User no longer requires access to the System.
	4. NWF reserves the right to deactivate a Registered User account if there has been no access for a period of ninety (90) days.
2. Invitation to Participate and Involvement in Services
	1. NWF shall send to the Registered Users of selected Suppliers, through the System, invitations for the relevant Suppliers to participate in specific procurement exercises.
	2. NWF shall configure the System as appropriate for each procurement exercise that it initiates. The selected configuration settings for a given procurement exercise shall be displayed on the System for the Registered Users of invited Suppliers to view. Participation by any one of the Registered Users of a given Supplier in a procurement exercise on the System shall:
		1. be deemed to indicate the Registered User’s agreement (on behalf of themselves, their Supplier and all other Registered Users of that Supplier) to be bound by those configuration settings; and
		2. result in all other Registered Users of that Supplier having access to the procurement exercise.
	3. In addition to procurement exercises, NWF may grant permission to the Registered Users for any Supplier to access the System for market engagements, or engage in activity relating to commercial contracts that have been awarded to the Supplier, or for the purposes of engaging in relation to other Services.
	4. The Registered User acknowledges and accepts on behalf of the Supplier that it is the sole responsibility of the Registered User to ensure that their contact details on the System are up to date, and to frequently check the System for opportunities, updates and other messages and communications. Some communications may require an urgent response, and most opportunities will be time limited. NWF shall have no liability in the event that a Supplier fails to participate in, or is not successful in, an opportunity, or is excluded from a procurement exercise, as a result of the relevant Registered User not seeing the relevant opportunity or other information or communication in time.
3. Supplier's obligations on use of the System
	1. Each Registered User shall (and shall ensure that their Supplier and each of its other Registered Users shall):
		1. use all reasonable care and skill in observing, complying with and performing their obligations under these Terms of Use;
		2. use compatible equipment and software (in each case that meets or exceeds the minimum system requirements specified on the System or as otherwise notified to the Supplier) to access and use the System;
		3. use best endeavours to protect the System from viruses;
		4. not use the System unless it is authorised by the relevant Supplier to use the System for and on behalf of the Supplier, and shall not use the System except within the scope of such authorisation and in accordance with the Supplier’s instructions (provided that such instructions comply with these Terms of Use);
		5. use the System for lawful and proper purposes only and shall, in any event, comply with all relevant laws, regulations and codes of practice within the UK or other jurisdiction from which Registered Users access the System; and
		6. be personally responsible for any unauthorised, false or fraudulent information that is submitted using their Registered User account in the System.
	2. Registered Users agree that they shall not (and shall ensure that their Supplier and each of its other Registered Users shall not):
		1. attempt to gain access to any part of the System which is restricted, including, without limitation, parts of the system normally only accessible to NWF;
		2. attempt to log on to the System as any other Supplier, attempt to access or view documents or information concerning other Suppliers or otherwise interfere with a tender submitted by any other Supplier;
		3. manipulate any information supplied on the System in a manner that would lead to inaccurate, misleading or discriminating presentation of information being displayed;
		4. post, transmit or disseminate any information on or via the System which is or may be harmful, obscene, defamatory or otherwise illegal;
		5. use the System in a manner which causes or may cause an infringement of the rights of another party;
		6. use any software, routine or device to interfere or attempt to interfere electronically or manually with the operation or functionality of the System, including uploading or making available files containing corrupt data or viruses via whatever means; or
		7. attempt to alter or modify the System in any way.
	3. Each Registered User represents and warrants (as a continuing warranty that is repeated on each day that their Registered User account subsists) that the information it has uploaded to the System is accurate, and as complete as possible, and accurately represents the Supplier's capabilities. Where estimated or approximate data is provided, the Registered User shall explain (as part of their upload) the nature of the data provided if so required by NWF.
4. General Provisions for the Submission of Responses
	1. Each Registered User is expected to examine all of the file attachments uploaded to the System for their Supplier, which indicate what information must be provided. Each Registered User must provide all of the items of information requested in the procurement exercise or other Service. Incomplete or virus-infected uploads shall entitle NWF to invalidate or reject the responses given on behalf of the relevant Supplier to the procurement exercise or Service, in their entirety.
	2. All responses to any invitation to participate in a procurement exercise must be submitted through the System before the closing date and time as specified on the System.
	3. Responses may be submitted through the System at any time up to the closing date and time as specified on the System.
	4. Responses must be submitted fully in accordance with the instructions in the relevant invitation to tender and any explanatory documentation or guidance.
	5. Responses will be opened by NWF in accordance with the opening procedures specified on the System or in the relevant invitation to tender for each procurement exercise.
	6. The Supplier shall be responsible for any unauthorised, false or fraudulent response to any invitation to participate in a procurement exercise that is submitted using one of its Registered Users' username and password.
5. Intellectual Property Rights
	1. All Intellectual Property Rights in any content uploaded to the System by NWF in connection with any Services or otherwise (“**Content**”) are and shall belong to and vest in NWF. Unless otherwise indicated, each Registered User acknowledges and agrees that all Content is confidential and shall ensure that their Supplier treats them as such.
	2. All Intellectual Property Rights in the System are owned by, or are under licence to, NWF and/or Atamis and its licensors. Each Registered User acknowledges and agrees that the System and all related functional and non-functional specifications, configurations, technical and user documentation, source code and object code are confidential and shall ensure that their Supplier treats them as such.
	3. No Registered User (or their Supplier) shall have or acquire any Intellectual Property Rights whatsoever in the Content or the System nor shall they (or their Supplier) have any right to copy, adapt, modify, create versions of, reverse engineer, integrate with or otherwise interfere with the Content or the System, or any right to use the Content or System other than the right granted in these Terms of Use.
	4. The Content may include the registered or unregistered trade marks of NWF and/or Atamis. Each Registered User acknowledges that it shall not (and their Supplier shall not) copy or otherwise use any such trade marks without written prior consent.
6. Data Protection
	1. In relation to use of and access to the System, each Registered User shall observe and comply with the Data Protection Legislation, and shall not do or cause or permit to be done anything which may cause or otherwise result in any failure to observe or comply with Data Protection Legislation on the part of NWF.
	2. Atamis, on behalf of NWF, will collect, hold and use personal data obtained from and about Registered Users obtained pursuant to clause 4.1, and such personal data shall be processed in accordance with NWF’s privacy policy: [Privacy and Cookie Policy | National Wealth Fund (NWF.org.uk)](https://www.ukib.org.uk/privacy-and-cookie-policy#:~:text=Privacy%20Policy&text=If%20you%20follow%20a%20link,of%20how%20to%20contact%20them). Personal data will be deleted once the relevant Registered User’s account is deactivated in accordance with clauses 4.3 or 4.4.
7. Freedom of Information

Each Registered User acknowledges (on behalf of themselves and their Supplier) that NWF may be obliged to disclose certain information in response to any request for information or an apparent request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, and NWF shall decide in its absolute discretion whether and to what extent any exemptions may apply. Please see the NWF website for further information: [Freedom of Information | National Wealth Fund (NWF.org.uk)](https://www.ukib.org.uk/freedom-of-information).

1. Limitation of Liability
	1. Nothing in these Terms of Use shall be construed so as to exclude or limit liability for death or personal injury or for fraud or fraudulent misrepresentation or for any other liability which it would not be lawful to so exclude or limit.
	2. Except as stated in clause 11.1 above, to the fullest extent permitted by law NWF and Atamis exclude and shall have no liability whatsoever to or in respect of any Registered User (or their Supplier) for or in relation to any breach of contract, breach of any duty of care (including negligence), breach of statutory duty or otherwise for or in respect of:
		1. any event of Force Majeure that affects the System in any way including its availability and/or performance;
		2. use or misuse of the System by any Registered User;
		3. connectivity failures in respect of the equipment and services used by the Registered Users;
		4. any error with or failure of (including unavailability of) the System; or
		5. any breach of these Terms of Use other than by NWF or Atamis.
	3. The aggregate liability of each of NWF and Atamis to any Registered User (and their Supplier) whether in contract, tort (including negligence), for breach of statutory duty or otherwise, arising out of or in connection with the Services, the Content and the System shall in no circumstances exceed £100.
	4. Each Registered User acknowledges and agrees (on behalf of themselves and their Supplier) that:
		1. NWF and/or Atamis reserve the right to interrupt and/or suspend the availability of the Content and/or the Services, and/or revoke access at any time without incurring any liability;
		2. NWF and/or Atamis provide the System on an “as is” and “as available” basis without any representations, guarantees, undertakings or warranties of any kind (whether express or implied); and
		3. NWF and/or Atamis do not accept any liability for any Content, or any information or links on the System, that may refer Registered Users to external sources.
	5. NWF does not warrant that the System will be uninterrupted or error free, that it is free of viruses, errors, bugs or other defects, or that defects will be corrected.
	6. Each Registered User and the Supplier agrees to indemnify NWF and Atamis in full against all claims, demands, actions or proceedings (including legal and other professional adviser fees and expenses) made by any third party arising out of or in relation to any failure on the party of the Registered User to observe and comply with (and ensure their Supplier observes and complies with) these Terms of Use.
2. Rights of third parties

These Terms of Use shall not create any rights that shall be enforceable by anyone other than NWF, except that clauses 2, 3, 5, 6, 8, 9, 11 and 12 may be enforced directly by Atamis.

1. Changes to these Terms of Use
	1. Please check these Terms of Use regularly. NWF may update them at any time without notice.
	2. Without limiting clause 13.1, NWF may inform Registered Users about changes to these Terms of Use by notification or message given in or via the System or using the email address provided by the Registered User in their System profile.
	3. If the Registered User continues to use the System after these Terms of Use are updated, the Registered User will be deemed to accept the changes on behalf of themselves and their Supplier. If the changes are made without notice from NWF, they will apply from the date of the Registered User’s first login to the System following the changes. If NWF informs the Registered User (or Registered Users generally) about the changes, the changes will apply from the date on which NWF informs the Registered User(s).
2. General
	1. The waiver of any breach of these Terms of Use shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.
	2. If at any time any part of these Terms of Use is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from these Terms of Use and the validity and/or enforceability of the remaining provisions of these Terms of Use shall not in any way be affected or impaired as a result of that omission.
	3. For the entire duration of each procurement exercise forming part of the Services, any relevant dates and times shall be those displayed on the System.
	4. Each Registered User acknowledges that the System will not allow it to view the identity of the suppliers other than their own Supplier during and after any procurement exercise, and similar restrictions may also apply in the context of market engagements and other Services.
3. Law and jurisdiction

These Terms of Use and any dispute or claim arising out of or in connection with them shall be governed by, and construed in accordance with, the laws of England and Wales, and shall be subject to the exclusive jurisdiction of the Courts of England and Wales to which the parties irrevocably submit.

1. Interpretation
	1. The headings to clauses in these Terms of Use are inserted for convenience only and shall not affect the interpretation or construction of these Terms of Use.
	2. Words imparting the singular shall include the plural and vice versa. Words imparting a gender include every gender and references to persons include an individual, company, corporation or partnership.
	3. The words and phrases “other”, "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.
	4. References to any statute or statutory provision shall include (i) any subordinate legislation made under it, (ii) any provision which it has modified or re-enacted (whether with or without modification), and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).
	5. All references in these Terms of Use to clauses are, unless stated otherwise, to the clauses of these Terms of Use.
2. Definitions

For the purposes of these Terms of Use the following definitions have the following meanings:

“**Data Protection Legislation**” means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation (EU) 2016/679 as incorporated into, amended and applied under English law; the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000, and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), together with any statutory codes and other guidance issued by the Information Commissioner from time to time;

“**Force Majeure**” means any event, act, omission, happening or non-happening, beyond the reasonable control of NWF or Atamis, that affects or may affect their performance including pandemic, governmental regulations, fire, flood, or any disaster or an industrial dispute affecting a third party for which a substitute third party is not reasonably available;

“**Helpdesk**” means the facility provided by Atamis to handle requests for support and issues raised by Registered Users in relation to the System;

“**Intellectual Property Rights**” means any patents, utility models, rights to inventions, copyright and neighbouring and related rights, database rights, rights in computer software, moral rights, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, design rights, trade marks and service marks, business names, domain names, rights to use and protect the confidentiality of confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all rights to apply for and be granted any such rights, renewals or extensions of them, and all similar or equivalent rights which subsist now or in the future in any part of the world;

“**Profile**” means the Supplier’s profile on the System which consists of basic information about the Supplier organisation, which may include [delivery locations, financials (including accounts or statements of turnover), insurance certificates and/or other relevant information that the System allows to be included from the Supplier;

“**Supplier**” means an organisation whose employees or other retained staff use the System for and on its behalf in connection with its supply of goods and/or services to NWF.

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